

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MAY 1, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1309

Introduced by Assembly Member Goldberg

February 21, 2003

An act to add Article 9.5 (commencing with Section 35277) to Chapter 2 of Part 21 of the Education Code, relating to school facilities; ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1309, as amended, Goldberg. Eminent domain: displaced residential development.

Existing law authorizes the governing board of a school district to acquire by eminent domain any property necessary to carry out any of the powers and functions of the board.

This bill would authorize the local governing agency, as defined, to acquire property to replace existing dwelling units displaced by school construction if certain conditions are met and would require that displaced persons be given a right of first refusal to purchase or rent the replacement dwelling units.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

The bill would require a school district that applies for specified state funding for the construction or expansion of school facilities, to make prescribed payments to the local governing agency, as defined, for the

purpose of funding replacement housing or to develop and construct that replacement housing, under certain conditions.

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Many cities in California face severe housing shortages.

4 (b) Residents of these cities are often unable to find affordable
5 housing, and must pay far more than they can afford for scarce and
6 often substandard housing.

7 (c) School construction projects in crowded urban areas often
8 result in a loss of affordable housing units.

9 (d) Creating affordable replacement housing in crowded urban
10 areas impacted by new school construction is a compelling
11 community need.

12 (e) To the extent possible, school districts and local
13 governments should work together to coordinate and facilitate the
14 construction of replacement housing when residents are displaced.

15 (f) To the extent possible, the replacement housing should be
16 built in the residents' existing neighborhoods.

17 (g) The state should facilitate and encourage collaboration
18 between school districts and local governments.

19 SEC. 2. Article 9.5 (commencing with Section 35277) is
20 added to Chapter 2 of Part 21 of the Education Code, to read:

21

22 Article 9.5. Schoolsite Replacement Housing

23

24 35277. For purposes of this article the following terms have
25 the following meanings:

26 (a) "Extreme shortage of affordable housing" means the
27 residential housing condition that exists where, for 10 percent or
28 more of all dwelling units within the vicinity of a new schoolsite,
29 the occupancy rate equals or exceeds 1.5 persons per habitable
30 room. For the purposes of this paragraph "habitable room" shall
31 have the same meaning as set forth in the California Building
32 Standards Code.



1 (b) “Local governing agency” means a city in which a new
2 schoolsite is located, or if a new schoolsite is located in an
3 unincorporated area, the county in which the new schoolsite is
4 located.

5 (c) “New schoolsite” means real property acquired by a school
6 district on and after January 1, 2004, for construction of a new
7 schoolsite or for expansion of an existing schoolsite to be funded
8 under Article 11 (commencing with Section 17078.10) of Chapter
9 12.5 of Part 10.

10 (d) “New schoolsite replacement housing” means housing to
11 replace the residential dwelling units demolished or to be
12 demolished in connection with a new schoolsite.

13 (e) “Vicinity of a new schoolsite” means the area within the
14 census tract in which a new schoolsite is located and the areas
15 within the immediately adjacent census tracts.

16 (f) “Affordable housing cost” and “affordable rent” shall
17 have the same meanings as set forth in Chapter 2 (commencing
18 with Section 50050) of Part 1 of Division 31 of the Health and
19 Safety Code as applied to persons and families of low or moderate
20 income.

21 (g) “Persons and families of low or moderate income” and
22 “persons and families of low income” shall have the same
23 meanings as set forth in Section 50093 of the Health and Safety
24 Code.

25 (h) “Very low income households” and “extremely low
26 income households” shall have the same meanings as set forth in
27 Sections 50105 and 50106 of the Health and Safety Code.

28 35278. (a) If a school district has acquired a new schoolsite
29 containing residential dwelling units, the local governing agency
30 may, consistent with this article, acquire real property for the
31 purpose of new schoolsite replacement housing and utilize or
32 convey the property according to this article, if all of the following
33 conditions are met:

34 (1) The local governing agency has determined that an extreme
35 shortage of affordable housing exists in the vicinity of the new
36 schoolsite.

37 (2) The real property to be used for replacement housing is
38 acquired by the local governing agency in the vicinity of a new
39 schoolsite, or in an area designated in the local governing agency’s
40 replacement housing plan adopted pursuant to paragraph (1) of

subdivision (e), within two years of the school district's acquisition of a possessory right to the new schoolsite. The two-year period may be extended pursuant to subdivision (g) of Section 35279.

(3) The combined area of the real property to be used for replacement housing acquired by the local governing agency pursuant to this article does not include any portion of the new schoolsite and does not, in acreage, exceed 150 percent of the area acquired by the school district for the new schoolsite.

(b) A local governing agency may rehabilitate, develop, or construct residential facilities on the property for the purpose of providing new schoolsite replacement housing as set forth in this article.

(c) Notwithstanding Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code or any other provision of law, a local governing agency that has acquired real property for new schoolsite replacement housing pursuant to this article may convey the property to an affiliated public agency for the purpose of providing new schoolsite replacement housing. An affiliated public agency that has acquired real property pursuant to this section may rehabilitate, develop, or construct residential facilities on the property for the purpose of providing new schoolsite replacement housing in compliance with this article.

(d) Notwithstanding Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code or any other provision of law, a local governing agency, or an affiliated public agency, that has acquired real property for new schoolsite replacement housing pursuant to this article, may sell, lease for no more than 99 years, jointly develop, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust, or otherwise, or otherwise dispose of the real property or any interest in that property, or any portion thereof, for the purpose of providing new schoolsite replacement housing through the rehabilitation, development, or construction of residential facilities or combined residential and commercial facilities on that property.

(e) (1) Any disposition of real property acquired for new schoolsite replacement housing pursuant to this article shall be in furtherance of the replacement housing plan adopted by the local

governing agency, which shall meet all of the following requirements:

(A) The replacement housing plan shall include all of the following:

(i) A statement of the general location of housing to be developed pursuant to this section.

(ii) A description of the means of financing the development.

(iii) A finding that the actions to be taken pursuant to the plan do not require approval of the voters pursuant to Article XXXIV of the California Constitution, or that the approval has been or will be obtained.

(iv) A specification of the number of dwelling units housing persons and families of low income and persons and families of moderate income, respectively, that are planned for construction or rehabilitation.

(v) Provisions to ensure that persons displaced by the acquisition of a new schoolsite, and the acquisition of a new schoolsite replacement housing property pursuant to this article, shall have a right of first refusal for the purchase or rental of dwelling units developed in the replacement housing.

(vi) A description of any facilities for commercial use to be constructed in combination with the replacement housing.

(B) The number of dwelling units to be developed on the combined area of real property acquired pursuant to this article will be equal to a prescribed percentage, as determined by the local governmental agency, but in no event less than 75 percent, of the number of dwelling units demolished or to be demolished in connection with construction or expansion of school facilities on the new schoolsite plus the number of dwelling units on the new schoolsite replacement housing property to be acquired pursuant to this article.

(C) A prescribed percentage, as determined by the local governmental agency, but in no event less than 50 percent, of the dwelling units developed on the property acquired for new schoolsite replacement housing pursuant to this article shall be available at affordable housing cost or affordable rent. The number of the dwelling units need not exceed the number of households of persons and families of low or moderate income displaced by the acquisition of the new schoolsite and the acquisition of property for new schoolsite replacement housing pursuant to this article.

1 This subparagraph does not prohibit a local governing agency
2 from requiring that all or any portion of the dwelling units
3 developed on property acquired for new schoolsite replacement
4 housing be available at affordable housing cost or affordable rent
5 to persons and families of low income, very low income
6 households, or extremely low income households. This
7 subparagraph does not prohibit a local governing agency from
8 participating financially or otherwise to enable any housing
9 developed pursuant to this article to serve households of lower
10 income if the need for that housing is identified in, and consistent
11 with, the replacement housing plan.

12 (2) For a reasonable period of time prior to adopting the
13 replacement housing plan, the agency shall make available a draft
14 of the proposed plan for review and comment by public agencies
15 and the general public.

16 35279. (a) A school district that applies for site acquisition
17 funds for a project to construct a new schoolsite or to expand an
18 existing schoolsite under Chapter 12.5 (commencing with Section
19 17070.10) of Part 10 shall state in its application whether the
20 project has resulted, or will result, in the displacement of
21 individuals legally residing on the site and whether an extreme
22 shortage of affordable housing exists in the vicinity of the new
23 schoolsite.

24 (b) If, and only if, the school district's application states that the
25 acquisition of the project has resulted, or will result, in the
26 displacement of individuals legally residing on the site, and an
27 extreme shortage of affordable housing exists in the vicinity of the
28 new schoolsite, the school district shall comply with subdivisions
29 (c) and (d).

30 (c) The school district shall, *applying only the proceeds from*
31 *the sale of bonds of the school district approved for the following*
32 *purposes*, do either of the following:

33 (1) Subject to subdivisions (d) and (e), the school district shall
34 pay to the local governing agency, ~~for the purposes of funding~~
35 ~~replacement housing~~ *as a cost of acquisition*, an amount equal to
36 the lesser of either of the following:

37 (A) Ten thousand dollars (\$10,000) per household displaced.

38 (B) The per household subsidy amount, if any, most recently
39 determined by the Department of Housing and Community
40 Development, pursuant to the multifamily housing program

1 applicable to the county in which the new schoolsite is located, for
2 the unit size and affordability level appropriate to the displaced
3 household based on the occupancy standards used by the local
4 housing agency receiving the funds.

5 (2) The school district or its designee shall, pursuant to this
6 article, develop and construct dwelling units on the property
7 acquired for ~~new schoolsite replacement housing~~ *the new*
8 *schoolsite* at least equal in number to the number of dwelling units
9 demolished in connection with construction or expansion of
10 school facilities on the new schoolsite.

11 (d) If the school district or its designee pays the local governing
12 agency pursuant to paragraph (1) of subdivision (c), in no event
13 shall the total amount provided to the local governing agency for
14 any new schoolsite replacement housing pursuant to this section
15 exceed four hundred fifty thousand dollars (\$450,000).

16 (e) For applications for state funding of school facilities that are
17 submitted prior to January 1, 2008, subdivision (c) does not apply
18 if the school district certifies that both of the following conditions
19 exist:

20 (1) ~~Then~~ *The* amount of the local bonds authorized by the
21 voters for that school district for construction, rehabilitation, and
22 equipping of school district facilities, or acquisition or lease of real
23 property for purposes of subdivision (c), do not include the
24 replacement housing costs associated with those applications.

25 (2) After diligent effort, the school district has been unable to
26 obtain adequate replacement housing funds from other public
27 agencies to fulfill the requirements of subdivision (c).

28 (f) The school district shall make any payments required under
29 this section within six months from the date the school district
30 commences demolition on the new schoolsite.

31 (g) If the local governing agency receives funds from the
32 school district pursuant to paragraph (1) of subdivision (c), the
33 time period specified in paragraph (2) of subdivision (a) of Section
34 35278 shall terminate 180 days after the receipt of the funds by the
35 local governing agency, or two years after the school district
36 acquired a possessory right to the new schoolsite, whichever event
37 occurs later.

38 (h) If funds paid pursuant to this section for a new schoolsite are
39 not encumbered within two years of their receipt by the local
40 governing agency for either the acquisition of property for

1 replacement housing pursuant to Section 35278, or for the
2 construction of affordable residential housing in the vicinity of the
3 schoolsite or in an area designated by a replacement housing plan
4 pursuant to paragraph (1) of subdivision (e), those funds shall be
5 paid by the local governing agency as follows:

6 (1) If the local governing agency is a city, the funds shall be
7 paid by the local governing agency to the county in which the local
8 governing agency is located for use in affordable housing projects.

9 (2) If the local governing agency is a county, the funds shall be
10 paid by the local governing agency to the Department of Housing
11 and Community Development for use in affordable housing
12 projects.

13 (i) If funds paid to a county pursuant to paragraph (1) of
14 subdivision (h) are not encumbered within two years of their
15 receipt by the county for either the acquisition of property for
16 replacement housing pursuant to Section 35278, or for the
17 construction of affordable residential housing in the school
18 district, the funds shall be paid to the Department of Housing and
19 Community Development for use in affordable housing projects.

20 ~~SEC. 3. This act is an urgency statute necessary for the~~
21 ~~immediate preservation of the public peace, health, or safety~~
22 ~~within the meaning of Article IV of the Constitution and shall go~~
23 ~~into immediate effect. The facts constituting the necessity are:~~

24 ~~In order to make affordable housing available to regain that~~
25 ~~housing displaced by school construction projects in areas~~
26 ~~suffering from an extreme shortage of affordable housing, it is~~
27 ~~necessary that this act take effect immediately.~~